

APPEAL NO. 041209
FILED JULY 1, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 1, 2004. The hearing officer resolved the disputed issues by deciding that the respondent/cross-appellant (claimant) sustained a compensable injury on or about _____; that the appellant/cross-respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified her employer of her injury pursuant to Section 409.001; and that the claimant has not had disability. The carrier appealed the hearing officer's determinations that the claimant sustained a compensable injury and gave timely notice of her injury to her employer, contending that those determinations are not supported by the evidence and are against the great weight of the evidence. The claimant appealed the hearing officer's determination that she has not had disability, contending that she met her burden to show that she had disability from August 6, 2003, through the date of the CCH. Each party filed a response.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10), that she had disability as defined by Section 401.011(16), and that she timely notified her employer of her injury pursuant to Section 409.001(a). Conflicting evidence was presented on the disputed issues. The hearing officer determined that the claimant sustained a compensable injury and gave timely notice of the injury to the employer, but did not have disability. The hearing officer's determination of a compensable injury is supported by the claimant's testimony and by certain medical records. The hearing officer's determination of timely notice of injury is supported by the claimant's testimony and by other evidence. In determining the disability issue, the hearing officer could consider that the claimant continued to work at her regular job for almost a year after her injury occurred and that her off-work status coincided with the employer's request for the claimant to clear up certain employment information unrelated to the injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **VALLEY FORGE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge